United Nations CERD/C/MNE/CO/4-6

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined fourth to sixth periodic reports of Montenegro*

1. The Committee considered the combined fourth to sixth periodic reports of Montenegro (CERD/C/MNE/4-6), submitted in one document, at its 2648th and 2649th meetings (CERD/C/SR.2648 and 2649), held on 7 and 8 August 2018. At its 2664th meeting (CERD/C/SR.2664), held on 17 August 2018, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fourth to sixth periodic reports of the State party.

3. The Committee expresses its appreciation for the frank, open and constructive dialogue with the State party's delegation. It wishes to thank the delegation for the information provided during the consideration of the report and for the additional information submitted during and after the dialogue.

B. Positive aspects

4. The Committee notes with great interest the State party's open door policy towards those who wish to seek asylum in its territory.

5. The Committee welcomes the adoption by the State party of the following legislative, institutional and policy measures:

(a) New Law on International and Temporary Protection of Foreigners in 2016;

(b) Law on the Amendments to the Law on Free Legal Aid in 2015;

(c) Amendments to the Law on Prohibition of Discrimination in 2014;

(d) Strategy for the social inclusion of Roma and Egyptians 2016–2020;

(e) Strategy for preschool education 2016–2020;

(f) Strategy of inclusive education 2014–2018;

(g) National housing strategy 2011–2020.

* Adopted by the Committee at its ninety-sixth session (6–30 August 2018).

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C. Concerns and recommendations

Statistics

6. The Committee is concerned that the socioeconomic indicators provided by the State party's delegation in its oral presentation were not sufficient to better evaluate how persons belonging to ethnic and national minority groups of the population and migrants, asylum seekers and internally displaced persons enjoy the rights enshrined in the Convention.

7. **The Committee recommends that, in its next report, the State party update the Committee with reliable and comprehensive disaggregated data on the socioeconomic situation of persons belonging to ethnic and minority groups living on its territory and migrants, refugees, asylum seekers and internally displaced persons.**

Office of the Protector of Human Rights and Freedoms of Montenegro

8. The Committee takes note of the progress made to reinforce the Office of the Protector of Human Rights and Freedoms of Montenegro (the Protector), but regrets that it is accredited with "B" status by the Global Alliance of National Human Rights Institutions. The Committee is concerned about (a) the lack of a clear, transparent and participatory selection and appointment process of the Protector; (b) the lack of legislative power of the Protector to recruit staff openly, transparently and through a merit-based selection process; and (c) the insufficiency of human and financial resources to efficiently carry out the mandate, including anti-discrimination activities (art. 2).

9. **The Committee recommends that the State party further reinforce the Office of the Protector by establishing a more clear, transparent and participatory selection and appointment process and explicitly empowering the Protector to recruit staff independently and through a merit-based process. It also recommends that the State party increase its efforts to allocate the Office of the Protector adequate financial and human resources to effectively carry out its mandate, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights.**

Racist hate speech and hate crimes

10. While noting that article 9 (a) of the Law on the Prohibition of Discrimination, as amended in 2014, provides a definition of and prohibits hate speech, the Committee is concerned about the absence of updated and comprehensive disaggregated data of instances of racist hate speech and racist violence in the State party. The Committee is also concerned about reports of hate speech by politicians and public figures against some ethnic or ethno-religious groups, in particular during pre-election campaigns. It is further concerned about racist hate speech expressed in the media, including the Internet, in the form of insults and derogatory language among in particular Serbians and Montenegrins. The Committee is also concerned about reports of racist violence against Roma and about incidences of racist violence during sporting events (art. 4).

11. **Recalling its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:**

(a) **Condemn and distance itself from racist hate speech expressed by politicians and public figures;**

(b) **Effectively investigate and, as appropriate, prosecute and punish acts of hate speech, including those committed by politicians or public figures during political campaigns;**

(c) **Ensure that acts of racist violence against any ethnic groups, in particular Roma, are firmly combated and that perpetrators are punished with sanctions commensurate to their acts;**

(d) **Ensure that media regulatory bodies prevent and repress manifestations of racist hatred and guarantee that the National Montenegrin Computer Incident**

Response Team and the Cybercrime Division of the National Police are allocated adequate funds and technical staff to counter racist hate speech on online platforms.

Representation of national and ethnic minorities in political and public life

12. The Committee is concerned that the equitable representation of all ethnic and national minority groups, in particular Roma and Egyptians, is not ensured in political and public life at the State and local levels, including in decision-making bodies. The Committee is also concerned that the specific conditions laid out in the election legislation regarding political parties representing national minorities do not favour the representation of Roma and Egyptians (art. 5).

13. **Recalling its general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, the Committee recommends that the State party redouble its efforts to improve the representation of all ethnic and national minority groups, in particular Roma and Egyptians, in political and public life including by taking special measures to politically and socially empower Roma and Egyptians in the public sector or state organs at the State and local levels.**

Situation of Roma, Ashkali and Egyptians

14. The Committee takes note of the various measures taken by the State party to improve the integration of, and eliminate racial discrimination against, Roma, Ashkali and Egyptians, such as the strategy for improvement of the position of Roma and Egyptians 2012–2016 and the new strategy for social inclusion of Roma and Egyptians 2016–2020. However, the Committee is concerned about the persisting negative attitudes towards and prejudices against Roma, Ashkali and Egyptians and the difficulties they continuously face in the areas of employment, housing, health care and birth registration. In particular, the Committee is concerned:

(a) About the disproportionately high unemployment rate of Roma, Ashkali and Egyptians, especially affecting women;

(b) About the overrepresentation of Roma, Ashkali and Egyptians in informal employment and unskilled jobs;

(c) That many Roma, Ashkali and Egyptians still live in inadequate housing conditions and in isolated settlements and some of them are at risk of eviction in the municipalities of Budva, Bar, Tivat, Herceg Novi, Ulcinij and Kotor;

(d) That a limited number of Roma face obstacles to accessing medical care including preventive health-care services;

(e) That despite the simplified procedure of birth registration, in practice Roma, Ashkali and Egyptians are mostly affected by obstacles to registering births in cases of children who are abandoned after birth, when the mother is unknown or when her identification documents were not submitted during registration;

(f) That Roma, Ashkali and Egyptians are mostly unaware of the importance of registering their children and lack identification documents (art. 5).

15. **Recalling its general recommendations No. 27 (2000) on discrimination against Roma and No. 32, the Committee recommends that the State party:**

(a) **Design more active, targeted labour market policies for Roma, Ashkali and Egyptians, increase and institutionalize the system of Roma mediators in employment and consider increasing the recruitment of Roma, Ashkali and Egyptians in both the public and private sectors;**

(b) **Accelerate the completion of all ongoing housing projects, including those under the regional housing strategy in order to relocate Roma, Ashkali and Egyptians in more appropriate housing units;**

(c) **Take measures to prevent forced evictions of Roma, Ashkali and Egyptians;**

(d) **Ensure the access of the remainder of the Roma, Ashkali and Egyptian population to medical care including preventive health-care services;**

(e) **Effectively implement a simplified procedure for birth registration, including by further sensitizing Roma, Ashkali and Egyptian parents to the importance of birth registration and to the existence of such a procedure;**

(f) **Ensure the registration of children in cases where the mother is unknown or lacks an identification document and continue efforts to provide them with identification documents and with legal aid, when necessary, for birth registration.**

Education for Roma, Ashkali and Egyptians

16. While noting efforts made by the State party to increase the enrolment of Roma, Ashkali and Egyptian pupils in school, such as the strategy for early and preschool education 2016–2020, the Committee remains concerned at their low attendance rate in preschool, primary and secondary education compared to the rest of the population, as well as a persistent dropout rate and absenteeism, which particularly affect Roma girls (art. 5).

17. **The Committee recommends that the State party effectively ensure that all children in its territory, in particular Roma, Ashkali and Egyptians, have access to education. The Committee also recommends that the State party reinforce the implementation of its protocol for reducing school dropout and ensure the sustainability of the Roma and Egyptian mediators' mechanism. The State party should pursue and intensify the behaviour change campaign to alter discriminatory attitudes and raise the awareness of Roma, Ashkali and Egyptian parents and communities of the need for and importance of education.**

Child and forced marriages and domestic violence in Roma, Ashkali and Egyptian communities

18. The Committee is concerned at reports of child and forced marriages in the Roma, Ashkali and Egyptian communities. The Committee is also concerned that this is coupled with a high prevalence of domestic violence, increases the vulnerability of girls and women to harmful practices and prevents children from attending school (art. 5).

19. **The Committee recommends that the State party:**

(a) **Strengthen its efforts to eliminate child and forced marriages in Roma, Ashkali and Egyptian communities through a coordinated strategy that involves access to education, employment and social services;**

(b) **Effectively implement the legislation which criminalizes extramarital union with a juvenile, establish procedures that facilitate the filing of complaints by victims and fully investigate, prosecute and appropriately sanction those responsible;**

(c) **Provide the Office of the National Coordinator for Combating Trafficking in Human Beings with adequate financial and human resources to firmly combat child and forced marriages;**

(d) **Take measures to prevent domestic violence, investigate and prosecute those responsible and conduct awareness-raising campaigns in partnership with Roma, Askhali and Egyptian communities and organizations on the negative effects of child and forced marriages and on domestic violence.**

Trafficking in persons

20. The Committee is concerned about reports that many children in particular Roma, Ashkali and Egyptians are begging and living on the streets, which also exposes them to different forms of exploitation including trafficking and economic and sexual exploitation. The Committee is also concerned about the absence of statistical data on this phenomenon, as well as on the application of its legislation, including on complaints lodged, investigations, prosecutions, sanctions imposed on those responsible and the redress provided to victims (art. 5).

21. **The Committee recommends that the State party:**

(a) **Conduct a study on the root causes of human trafficking and its scope in its territory;**

(b) **Effectively implement its legislation on trafficking by facilitating the filing of complaints, conducting investigations and carrying out prosecutions, sanctioning those responsible and providing adequate redress to victims;**

(c) **Conduct and intensify awareness-raising campaigns targeting Roma, Ashkali and Egyptian communities;**

(d) **Adopt a more comprehensive and multisectoral strategy to combat trafficking and evaluate it regularly;**

(e) **Provide the Committee with statistical data on trafficking and on the number of children begging on the streets.**

Asylum seekers, refugees, internally displaced persons and stateless persons

22. The Committee is concerned about the reported challenges for the State party's reception capacity in terms of accommodation and staffing, particularly if there is a massive influx of asylum seekers. The Committee is also concerned that the refugee status determination procedure is not always fair and transparent. The Committee is further concerned that the newly established statelessness determination procedure still has shortcomings (art. 5).

23. **The Committee recommends that the State party improve reception conditions for asylum seekers and its refugee status determination procedure, in order to offer all the legal safeguards needed for this procedure. For that purpose, the Committee recommends that the State party conduct training for the relevant staff of the Ministry of the Interior. The Committee further recommends that the State party fully implement the 1961 Convention on the Reduction of Statelessness, address the shortcomings in the new statelessness determination procedure and ensure it is well known by those seeking international protection, in particular the remaining stateless persons of the Roma, Ashkali and Egyptian communities.**

Complaints about acts of racial discrimination

24. The Committee is concerned that only a limited number of complaints about racial discrimination have been registered with the police and the Protector, either under the Law on Prohibition of Discrimination, the Criminal Code, the Law on Public Peace and Order or the Law on the Prevention of Violence and Misconduct at Sports Events, and that very few cases were prosecuted and sanctioned by the courts. It is also concerned that most such cases are addressed and classified as misdemeanours. The Committee is further concerned that sanctions for acts of racial discrimination remain lenient and regrets that the State party has not provided information on the redress provided to victims (art. 6).

25. **Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee, while noting that training of law enforcement officials has taken place, recalls that the absence of complaints about and legal action taken against racial discrimination may reveal poor awareness of the legal remedies available, a lack of will on the part of the authorities to prosecute the perpetrators of such acts, a lack of trust in the criminal justice system, or a fear of reprisals against victims. The Committee recommends that the State party intensify its awareness-raising campaigns among the population, in particular Roma, Ashkali and Egyptian communities, refugees, asylum seekers and internally displaced persons, and update the Committee in its next report, by providing statistics on the complaints received, the prosecutions initiated, the sanctions taken against the perpetrators of such offences and the redress provided to victims.**

Human rights education to combat prejudices and promote understanding

26. The Committee takes note of the information provided by the State party on the numerous training sessions conducted for magistrates, police officers and other law enforcement officers. However, the Committee is concerned at the lack of information on human rights training and education in the curriculum taught at primary and secondary school levels and at university level. The Committee is also concerned about the absence of information on specific measures aimed at fostering and promoting understanding and tolerance among different ethnic groups (art. 7).

27. **The Committee recommends that the State party provide information on human rights training and education in the curricula of all schools at the primary and secondary levels and at university level. It also recommends that the State party provide information on the measures taken to promote and foster tolerance and understanding among different groups living on its territory.**

D. Other recommendations

Ratification of other treaties

28. **Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights instruments that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Committee also reiterates its recommendation that the State party ratify the International Labour Organization Domestic Workers Convention, 2011 (No. 189).**

Follow-up to the Durban Declaration and Programme of Action

29. **In the light of its general recommendation No. 33 (2009), the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.**

International Decade for People of African Descent

30. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in the framework of the International Decade for People of African Descent, taking into account the Committee's general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Consultations with civil society

31. **The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations concerned with human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.**

Declaration under article 14 of the Convention

32. **The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the Committee's competence to receive and consider individual communications.**

Amendment to article 8 of the Convention

33. **The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.**

Common core document

34. **The Committee encourages the State party to update its common core document, which dates back to 2012, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.**

Follow-up to the present concluding observations

35. **In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 15 (e) and (f) and 25 above.**

Paragraphs of particular importance

36. **The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11, 17, 21 and 23 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.**

Dissemination of information

37. **The Committee recommends that the State party's reports be made readily available to and accessible by the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.**

Preparation of the next periodic report

38. **The Committee recommends that the State party submit its combined seventh and eighth periodic reports, as a single document, by 3 June 2021, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.**